

THE AMERICAN SOCIETY OF INTERNATIONAL LAW

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May 25, 1982

Final Progress Report

re: Grant AID/LAC-1288, Project No. 598-0591
Inter-American Legal Services Association (ILSA)

The following report is provided in accordance with Paragraph C., "Reports," of Attachment 1 to the Grant Letter dated August 31, 1978, for the captioned grant to establish ILSA. Pursuant to that paragraph, I am submitting twelve copies, ten of which are being sent to AID/W, LAC/DP/SD, and two of which are being sent to the AID Reference Center. One set of appendices is provided.

This report follows the semi-annual report submitted for the period ending February 28, 1981, and it covers the periods ending August 30, 1981, February 28, 1982 and May 31, 1982.

Two other reports will be provided before September 30, 1982. First will be the report of an evaluation of ILSA that is being conducted by Professor Joseph Thome of the University of Wisconsin. The second will be a reflective paper by Seymour J. Rubin, Executive Director and Executive Vice President of the American Society of International Law, who has served as President and Chairman of ILSA during the life of the project, and was Chairman of the panel of experts in the predecessor project, a study on "The Role of Law in Social Change in the American Republics."

I. OVERVIEW

This period was highlighted by the First Conference on the Organization and Delivery of Legal Services in Latin America and the Caribbean, held October 13-17 in San Jose, Costa Rica. This was a watershed event, bringing together almost eighty lawyers, scholars, judges and government officials from Latin America, the Caribbean, Africa, the Middle East, the United States, Canada and Europe. Also during this period, ILSA awarded seed money grants for projects in Chile, Ecuador and Panama, and successfully completed its seed money projects in Belize, Jamaica, Colombia and Peru.

Raising funds to continue ILSA's operations beyond the project period has been a constant preoccupation. AID's decision in September, 1981 to disapprove ILSA's funding application forced a fundamental rethinking and restructuring of the organization. The Board of Directors of ILSA ultimately decided to close down the Washington Office, reconstitute the Latin American Regional Office in Bogota as ILSA's new headquarters, and spin off the Caribbean Regional Office as a separate but closely affiliated corporation headquartered in Barbados.

II. ACCOMPLISHMENTS

A. San Jose Conference

The First Conference on the Organization and Delivery of Legal Services in Latin America and the Caribbean was held October 13-17, 1981, in San Jose, Costa Rica. The Conference was supported in part with contributions totalling \$33,500 from the Ford Foundation, Inter-American Foundation and Rockefeller Brothers Fund.

Originally the Conference had been planned for Caracas, Venezuela. However, last June ILSA decided to move the site to San Jose because of lower costs and better facilities and in-kind support. ILSA's local co-sponsors were the Inter-American Institute of Human Rights, the United Nations Latin American Institute for the Prevention of Crime and Treatment of Offenders (ILANUD) and the Faculty of Law of the University of Costa Rica.

Seventy-eight persons attended the Conference. They included forty-seven from twelve Latin American countries, thirteen from nine Caribbean countries, fourteen from the United States, Canada and Europe, and four observers sent by the Ford Foundation from Kenya, Egypt, Zimbabwe and the West Bank. Of the Latin American and Caribbean participants, thirty-seven are actively engaged with legal services programs. Other participants from the region included the Chief Justice of the Supreme Court of Barbados, the Minister of Home Affairs of Dominica, the Minister of Justice of Costa Rica (taking office in May 1982), as well as socio-

legal researchers and law professors with expertise in legal services and law and development. For example, Professor Rogelio Perez Perdomo of the Central University of Venezuela, had recently completed a major study for the Ministry of Justice of Venezuela to rationalize the complex and diffuse legal rules, procedures and agencies governing legal aid and social welfare benefits.

The program included two days of plenary sessions, a day of workshops, a day for informal discussions, and a final half day plenary session. At the opening ceremony, welcoming remarks were delivered by the Vice President of Costa Rica, Jose Miguel Alfaro, followed by a keynote address by Monsignor Marcos McGrath, Archbishop of Panama.

The Conference proved to be a watershed both in the history of ILSA and the development of legal services in the region. For most program leaders, it was the first time they had been able to meet others with similar concerns and problems. It was an opportunity for activists, policy makers and scholars to share ideas and experiences, as well as to provide a comparative perspective from North America, Europe, Africa and the Middle East.

Appendix 1 contains copies of the final program, list of participants, list of papers and a set of the Conference papers. A final report on the Conference is being written by ILSA's Technical Director, Professor Luis Bates, and will be published in the fall. A copy will be sent to AID.

B. Other "Networking" and Educational Activities

1. Newsletters

Two newsletters have been distributed. They are attached as Appendix 2.

2. Documentation Center

A bibliography of the Documentation Center's collection was published for the San Jose Conference. A copy is attached as Appendix 3.

3. Inter-American Bar Association

In March 1981, ILSA's Technical Director presented a paper on legal aid and economic development (Appendix 4) at the XXII Conference of the Inter-American Bar Association in Quito. The General Assembly passed a resolution in support of ILSA, attached as Appendix 5.

4. Paralegal training

In May 1981, ILSA awarded a travel grant to enable a paralegal trainer from the Barbados Community College to attend a one-week training seminar in Washington sponsored by the National Paralegal Institute.

5. North American legal services tour

In September 1981, the Inter-American Foundation awarded an educational travel grant to Sonia Jones, Managing Director of the Kingston Legal Aid Clinic and Secretary of the Jamaican Bar Association, to visit legal services training programs and clinics in Canada and the United States. The grant was administered by ILSA, which also arranged all of Ms. Jones' visits. Ms. Jones first spent two weeks in Toronto under the sponsorship of one of ILSA's Board members, Professor Frederick H. Zemans, who teaches at Osgoode Hall Law School and is a leading international authority on legal aid. The second phase involved two weeks of study at the Legal Services Institute under the sponsorship of Professor Gary Bellow of Harvard Law School. Professor Bellow also is one of the foremost legal aid scholars and teachers in the world. The final phase, now in process, involves visits to various legal aid clinics in the Washington area.

6. Fundraising project

ILSA recently completed a memorandum on fundraising for Latin American and Caribbean legal services programs. A copy of the memorandum and the accompanying list of funding sources are attached as Appendix 6.

7. Research meetings

It will be recalled that the San Jose Conference was originally conceived as a meeting for researchers and had been preceded by an ILSA-sponsored meeting of socio-legal scholars in Madison, Wisconsin in June 1980. At the San Jose Conference a Research Workshop was conducted by Professors David Dodd and Santiago Onate of the ILSA Board. The workshop was attended by most of the scholars who had been present at Madison plus two others from Brazil and Peru. A follow-up meeting is planned for June in Toronto in conjunction with the annual meeting of the Law and Society Association. Six ILSA Board members will participate, and the Canadian Ministry of Justice and Osgoode Hall Law School have provided funds to sponsor several other Latin American socio-legal scholars.

8. Travel of Executive and Latin American Regional Directors

The Executive Director of ILSA traveled to the Dominican Republic, Haiti, Venezuela, Grenada, Barbados and Jamaica from

March 25 to April 11, 1981. At the time of the trip it had been envisioned that ILSA's October 1981 Conference would be held in Caracas. Thus the major purpose of the trip was to work with Professor Rogelio Perez Perdomo, who was to be the local organizer of the Conference, make arrangements with the Central University of Venezuela for hotel and meeting facilities and to work with ILSA's local partner, the Central University of Venezuela, on hotel and meeting facilities, local funding, and other arrangements. The purpose of visiting the other countries was to evaluate or monitor a number of legal services projects ILSA was involved with, as well as to meet with ILSA's Caribbean Regional Director, who was temporarily in Grenada.

About the same time, the Latin American Regional Director traveled to the Dominican Republic, Mexico, Guatemala, Panama, Ecuador and Chile. The purpose of these visits was to evaluate several legal services programs that had applied to ILSA for funds. A second purpose was to identify groups who could be invited to ILSA's October Conference.

From February 5 to March 15, 1982, the Executive Director of ILSA traveled to Belize, Costa Rica, Panama, Colombia, Chile, Peru and Ecuador. The trip had the following purposes:

- (a) monitor the progress of the Belize Legal Aid Centre;
- (b) explore prospects for an office in Costa Rica and do follow-up work on the Conference;
- (c) negotiate grant agreements with projects in Panama, Chile and Ecuador which had been approved for funding in May, 1981;
- (d) discuss ILSA's reorganization with the Latin American Regional Director;
- (e) work with the Technical Director on the San Jose Conference Report;
- (f) meet with the Peruvian groups that had attended the San Jose Conference.

C. Development of Legal Services Programs

1. Latin America

- a. Chile: INSTITUTO DE ESTUDIOS Y DESARROLLO DE LA ASISTENCIA LEGAL (IEDAL)

ILSA made a one-year grant of \$10,000 to IEDAL to provide legal services to two associations of pushcart vendors (hombres de carrito) in Santiago. In addition to these services, IEDAL will research issues and concerns that affect the membership of

these societies and see to it that the members are acquainted with the laws and regulations that govern their work. The project also is being supported by the Inter-American Foundation.

IEDAL will operate a legal clinic three mornings a week. Cases concerning all branches of the law, civil, labor and penal, will be accepted although emphasis will be placed on those cases that involve common problems and offer possibilities for collective solutions. Examples include municipal permits for sales, production and transporting goods; formation of production groups for efficiency and meeting minimal standards. Both judicial and administrative problems in dealing with public offices will be handled.

IEDAL also will examine the legal norms applicable to the societies in order to suggest reforms and changes in production and sales standards to comply with the law. Through seminars, pamphlets and discussions, IEDAL will acquaint the members of the societies with the legal and administrative dispositions that must be complied with. Emphasis will be placed on taking preventive measures to avoid continued conflict with authorities.

b. Colombia: CENTRO DE INVESTIGACIONES PRO DEFENSA DE INTERESES PUBLICOS (PROPUBLICOS)

ILSA made a one-year grant of \$6,000 to PROPUBLICOS in support of its program of legal assistance to Indians in the Department of Cauca through the Comite Regional Indigena del Cauca (CRIC). The project was completed satisfactorily March 31, 1982.

ILSA's support enabled PROPUBLICOS to hire a second lawyer to work on land tenure problems affecting CRIC's communal lands (resguardos).

This program has two aspects. The first is archival research to search for title to the communal lands. This involves examining records going back to 1540. So far a total of 25 titles have been located, transcribed and delivered to Indian communities in the Cauca.

The second aspect of the program is delivery of legal services. They fall basically into four areas:

- (1) Gaining legal recognition of resguardos by intervening with local authorities as well as the Colombian Agrarian Reform Institute (INCORA). For example, the PROPUBLICOS lawyers succeeded in having declared illegal a declaration from 1944 that had extinguished resguardo status to communal land and were able to prove title from records of 1894.

- (2) Utilizing land titles in penal cases. These cases are brought by large landowners seeking to remove Indians from their land.
- (3) Civil (nonpenal) matters. These involve mainly actions for recovery of possession by Indians who have title to land that has been occupied by large landowners.
- (4) General legal advice. The emphasis is on problems relating to land, especially conflicts among residents of the same resguardo, sale of resguardo land by Indians to outsiders, and gaining recognition of Indian town councils.

ILSA's support for the project terminated March 31, 1982. The project is continuing with funds from other sources.

c. Ecuador: CENTRO NACIONAL DE ASESORIA JURIDICA
CAMPESENA (CENAJC)

ILSA made a one-year grant of \$10,000 to PRODESARROLLO, a nongovernmental entity that assists peasant organizations, to create a National Legal Assistance Center. CENAJC now has small offices in three regions: Pichincha, Esmeraldas and Azuay-Loja. ILSA's funds will enable these programs to increase their level of services and provide for central administration by the headquarters of CENAJC, which will be based in Quito in the offices of the Pichincha program.

Each of the three programs will have an office and an out-reach service. Services will be delivered by teams of professionals consisting of lawyers, paralegals and organizers, who will collaborate closely with leaders of the beneficiary peasant communities.

Services will be provided along two lines: legal assistance and legal education. The objective will be to provide legal advice and representation to peasant communities and to make them more aware of their legal rights and how to assert them. The focus will be on the use of the law to meet the collective needs of peasant communities for their development. Areas of emphasis will include:

- claims for land under the agrarian reform laws;
- claims for access to water, roads, grazing lands and other basic resources;
- protection against repression and discrimination;
- claims for wages and other labor problems;
- formation and legalization of peasant organizations and protection of their rights as organizations.

d. Panama: ESTUDIO JURIDICO POPULAR

ILSA made a one-year grant of \$6,400 to Estudio Juridico Popular to expand its program of legal assistance and education for worker, peasant and other grassroots organizations. This will include the following:

- help organize and obtain legal personality for grassroots groups and defend their rights as organizations under the laws of Panama;
- provide legal advice and representation to members of these grassroots organizations, with emphasis on land titling; and
- conduct seminars for organized workers, peasants and residents of low-income urban neighborhoods to educate them of their rights.

e. Peru: ASOCIACION DE DESARROLLO Y CAPACITACION LEGAL (ADEC)

In April 1980, ILSA made a one-year grant to ADEC to provide legal assistance to organized workers faced with penal, labor, civil or administrative problems. The project was co-financed by the Inter-American Foundation.

ILSA's grant came to a satisfactory conclusion in March 1981. During the first year, ADEC assisted some 40 organizations. With funds provided by the Inter-American Foundation, ADEC published a quarterly journal, Cuadernos Laborales, discussing trends and new developments in the labor field.

The Inter-American Foundation has renewed its assistance for another two-year period, and the project continues to grow in reach and effectiveness.

2. Caribbean

a. Belize: BELIZE LEGAL AID CENTRE

In March 1981, ILSA made a two-year grant to the Bar Association of Belize to establish a Belize Legal Aid Centre. The grant included \$10,000 from AID and the remaining funds were received from the Canadian International Development Agency.

The Centre's Managing Director, a former Magistrate, began employment in July 1981. The Centre became fully operational in November 1981.

A recent Progress Report submitted to CIDA is attached as Appendix 7.

b. Jamaica: KINGSTON LEGAL AID CLINIC (KLAC)

In December 1980, ILSA made a three-year grant to the Kingston Legal Aid Clinic to establish a Mobile Legal Aid Clinic that would serve the rural poor living in the parishes of Clarendon and Manchester. The grant included \$10,000 from AID and the remaining funds were received from the Canadian International Development Agency.

The project was slow getting off the ground due to difficulties in procuring the project vehicle and in finding a suitable attorney to staff the project. These difficulties have been overcome. The vehicle arrived several months ago, and the KLAC lawyers are handling the Mobile Clinic's caseload on a rotational basis.

c. Jamaica: MONTEGO BAY LEGAL AID CLINIC

The project established a Mobile Clinic just like the one described above. While ILSA did not make a grant, it did play a significant role in getting the Clinic started. ILSA representatives presented the grant proposal to the Inter-American Foundation and subsequently accompanied IAF officers on a visit to the MOBAY Clinic. They also met with the directors of the Kingston Legal Aid Clinic, the President of the Bar Association, Chief Justice of the Supreme Court and the new Attorney General appointed by Prime Minister Seaga. Given the expected linkages with the KLAC Mobile Legal Aid project, and the strong support for both projects expressed by Jamaica's legal establishment, the IAF awarded a three-year grant. ILSA acted as purchasing agent for the project vehicle.

3. Other projects

Several other projects described in the last semi-annual report were dropped. CEDAIL (Dominican Republic) was able to obtain funding from a source other than ILSA. MONAP (Guatemala) was viewed as too risky politically. INPROA (Chile) was too large a project, and ILSA's small grant would have been insignificant. Project support for Dominica and Grenada would have been premature, but ILSA is continuing to work with government and bar association officials in both countries to establish clinics later this year.

D. Organizational Developments

1. Meetings and Changes of Officers and Board Members

Three meetings were held during this period. In May 1981, the Executive Committee of ILSA met in Washington. The meeting had two major purposes. The first was to consider a number of projects that had applied to ILSA for funding. Grants were approved for projects in Chile, the Dominican Republic, Ecuador and Panama. The second purpose was to review plans for the October 1981 Conference.

Also at this meeting, ILSA's Caribbean Regional Director, Mr. Miles Fitzpatrick, resigned for personal reasons. He was succeeded by Mr. Ronald Thwaites of Jamaica. Mr. Thwaites is a Jamaican attorney and leading private citizen. Now in private law practice, he was founder of the Kingston Legal Aid Clinic and continues as its Chairman. Mr. Thwaites also helped to found the Caribbean Human Rights and Legal Aid Company, has a daily radio news/talk show and sits on the board of directors of numerous Jamaican social service organizations. He also teaches social work at the University of the West Indies and is a member of the Board of Canadian University Services Organization (CUSO).

In October 1981, the full Board of Directors met in conjunction with the San Jose Conference. Four Board members were not re-elected: Mario Chavez Garcia (Guatemala), Winston McCalla (Jamaica), Stephen Zamora (U.S.A.) and Isidoro Zanotti (U.S.A.). Mr. Thwaites was elected to the Board, as was Professor Santiago Oñate of the Autonomous University of Mexico, where he directed a rural legal services program. Professor Oñate is currently a Visiting Professor at the University of Wisconsin Law School.

In May 1982, the ILSA Board met in Miami, Florida to wind down affairs under the current project and to review ILSA's record during its first three and a half years. The latter discussion was led by Professor Joseph Thome for purposes of the evaluation he is conducting. Also at this meeting a new member was added to the ILSA Board: Mr. Salvador Tio, Director of the Regional Office of the Legal Services Corporation for New York, Puerto Rico and the Virgin Islands.

2. Reorganization of ILSA

The following plan was adopted unanimously. The Latin American Regional Office of ILSA in Bogota will be reconstituted as the new headquarters, and the Washington Office will be closed. This decision resulted from the need to cut costs and to diversify ILSA's fundraising base. It is believed that prospects for raising funds will be enhanced by moving to the region. The Latin American Regional Director, Dr. Fernando Umaña, was elected President. A new Executive Director will run the office, contingent on raising funds from the Canadian International Development Agency. The person selected is Dr. Annette Pearson, a lawyer

from New Zealand, with a Ph.D. in criminology from Cambridge University. She is married to a Colombian and resides in Bogota. The former President, Seymour Rubin, will continue as Chairman of the Board. The former Executive Director, Paul Liebenson, will continue as Secretary-Treasurer.

The Caribbean Regional Office will be spun off as a separate but closely affiliated corporation headquartered in Barbados. The Chairman will be Sir William Douglas, Chief Justice of the Supreme Court of Barbados. The President will be Mr. Ronald Thwaites.

ILSA's objectives remain as they have been:

1. to foster communication and cooperation among legal services programs in the region;
2. to help legal services programs establish legitimacy and support within their own countries;
3. to increase financial assistance for legal services programs from North American and European based funding sources;
4. to increase access to informational resources in North America and Europe.

III. PROBLEMS

A. Barbados Community Legal Services Commission

ILSA recently withdrew its offer to make a \$12,000 grant to the Barbados Community Legal Services Commission. Despite some significant progress--especially the enactment of the Community Legal Services Act and the formation of the Commission, an autonomous governmental agency--a number of the conditions on which ILSA's offer had been made have not been met. First, the Government failed to commit adequate counterpart funding due to the deteriorating economic situation in Barbados. Second, a Director has not been recruited; nor has the Bar Association and University of the West Indies manifested a great deal of commitment and initiative to suggest that they would insure delivery of quality legal services at no cost.

The Chief Justice of the Supreme Court, who is a member of the ILSA Board, participated in this difficult decision, which has been communicated to the Solicitor General. ILSA has offered to assist in raising funds from other sources once local support for the project has been firmed up.

B. Documentation Center

The Documentation Center was established two years ago. It was publicized through the ILSA Newsletter, and a bibliography was distributed at the San Jose Conference. Nonetheless, its facilities are not being utilized nearly to the extent expected. Only a handful of programs have requested information from the Center. In the future it is envisioned that the Center will serve as a resource base for ILSA to produce reports and articles that may be distributed to legal services and related programs.

C. UWI Public Interest Law Course

The last semi-annual report described an effort underway to develop a public interest law course at the University of the West Indies in Barbados. Unfortunately, little interest has been shown by the UWI faculty. The establishment of ILSA's Caribbean affiliate in Barbados should serve to renew interest and support for this project.

IV. CONCLUSIONS

The American Society of International Law is very pleased by the success of this project. All of the specific objectives stated in the Grant Agreement have been met, and indeed exceeded.

1. A Washington headquarters and two subregional centers were established. Later, this structure was reorganized based on new realities so as to continue ILSA beyond the project period.
2. A number of initiatives were taken to develop data on legal services in the region and to foster the exchange of information on existing programs:
 - a. ILSA organized the First Conference on the Organization and Delivery of Legal Services in Latin America and the Caribbean (San Jose, October 1981) as well as a seminar on Caribbean Legal Services (Miami, July 1980) and a Legal Services Seminar (Santo Domingo, May 1979).
 - b. A Documentation Center was established and two newsletters produced.
 - c. Other educational activities included exchange visits and on-site program evaluations.

3. ILSA made a systematic examination of possibilities for development of sources of long-term financing.
4. ILSA helped to create and/or significantly expand seven well-designed and managed legal assistance programs in the hemisphere.

It is with some pride that one looks at the larger accomplishments of this project. A hemisphere-wide network of judges, government policy makers, lawyers and scholars concerned about development and the rule of law has been created. ILSA has been strengthened institutionally, developed managerial and programmatic capability, and achieved respect and support from a broad range of national, regional and international organizations concerned with development, human rights and U.S. policy towards Latin America.

Probably the greatest disappointment in terms of the goal stated in the Grant Agreement was the failure to achieve "broad financial and other support from governments and the private bar...." But even this failure may be viewed as a success in that we have learned more about the realities of Latin American and Caribbean legal systems and the possibilities of support from the official institutions. Ministries of Justice and other governmental legal departments are extremely underfinanced, and legal assistance for low-income people is not viewed as one of their priorities. Bar Associations, by and large, function more as social clubs rather than professional service associations. While many attorneys individually honor the profession's obligation to serve the public, bar associations institutionally play a minor role.

It has been difficult to have much impact in only three and a half years on structures that have developed over five centuries. Where ILSA has been able to have a meaningful effect is in directly supporting the archipelago of small and innovative legal services programs that have been created over the past fifteen or so years. These programs, locally directed and rooted in the political, cultural and legal traditions of their respective countries, are best able to develop support from bar associations, governments, and other public institutions while meanwhile bridging the gap to provide low-income people with effective access to the legal system.

It is highly encouraging that those who have participated in the work which led to ILSA and in its work once organized have found satisfaction in its accomplishments and have determined to continue this cooperative effort. Resources in the future are likely to be limited; but not only the officers and directors of ILSA, but many others in the Americas, have made clear that

they will maintain their involvement. As they continue to work in this field--in academia, in practice, in government--such persons are bound to have a strong multiplier effect. The individual projects as well have already manifested that they have importance far beyond their immediate activities and clientele. They are demonstrations of what can be done, and models which can be followed--and are being followed.

Finally, the future ILSA will be involved with many projects that fall within the guidelines of AID. Of special interest are those that serve to strengthen national legal systems. It is hoped that the termination of the general support grant from AID does not indicate unwillingness to assist on such specific project applications. Help in this way would solidify and enhance the contribution of law to development in the Americas, which is a common aim of AID and of ILSA.

List of Appendices

1. San Jose Conference materials: revised final program, list of participants and list of papers; set of Conference papers [set of Conference papers sent under separate cover].
2. ILSA Newsletter, Nos. 1 & 2.
3. Bibliography of Documentation Center [sent with Conference papers].
4. Luis Bates Hidalgo, "Economic Development Income Dist. & Legal Aid."
5. Inter-American Bar Association resolution supporting ILSA.
6. Fundraising materials.
7. Belize Progress Report.